

SP

Notice of Allowability

Application No.

09/923,469

Examiner

Fenn C Mathew

Applicant(s)

TULLER ET AL.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/13/05.
2. ☒ The allowed claim(s) is/are 19,23,24,33 and 37-41.
3. ☒ The drawings filed on 06 August 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |



**MICHAEL A. BROWN
PRIMARY EXAMINER**

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kelly Cunningham on May 13, 2005.

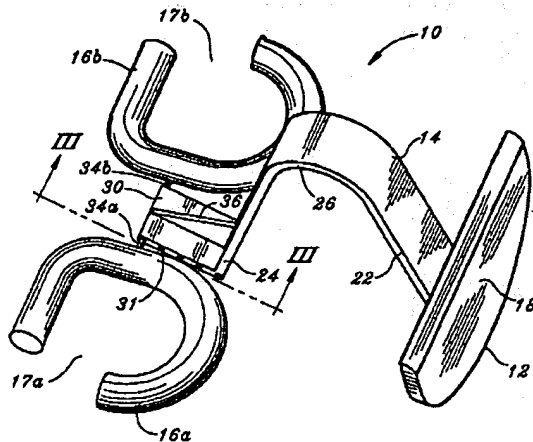
Please amend the claims as follows:

- In claim 33, line 5, after the phrase "thighs wherein said" please insert the word ---thigh--
- In claim 33, line 9 after the phrase "muscles for exercise thereof" please insert the phrase --wherein said semi-rigid means are pivotally coupled to said thigh engaging means--
- In claim 37, line 11, please delete the word "attached" and substitute the phrase --pivotally coupled-- therefore.

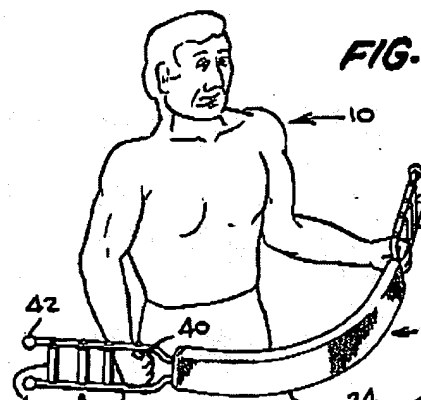
The following amendments were made to place application in condition for allowance.

Allowable Subject Matter

2. Claims 19, 23-24, 33, 37-41 allowed. The following is an examiner's statement of reasons for allowance: Diamond, Jr. et al. (U.S. 6,231,487)



teach an upper grasping portion, but fails to teach the upper grasping portion sized and shaped to be engaged by the user's chest. Diamond also teaches thigh engagement member and an elongated flexible member, but fails to teach the elongated member to be flat, and in fact teaches away from the flexible member being flat (Diamond requires a strong bend in order to perform hamstring exercise).



3. Weingardt (U.S. 4,428,577) teaches a device including an upper grasping member, and a lower grasping member, and a flat elongated flexible member connected therebetween. Weingardt fails to teach the upper grasping portion sized and shaped to be engaged by a user's chest and also be held by a user's hands, wherein the grasping portion and thigh engaging portion have ends

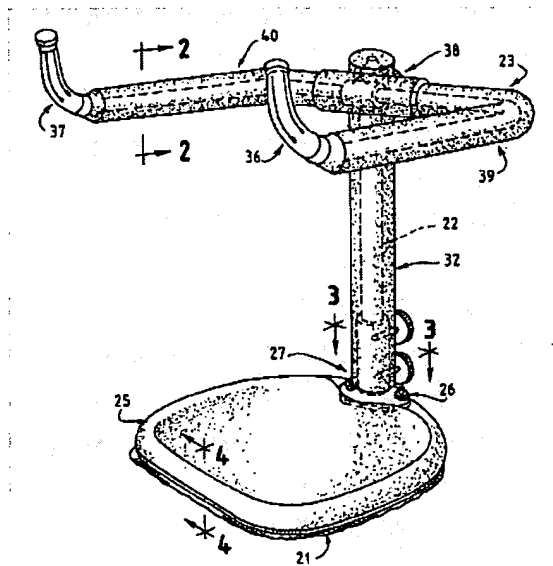
Art Unit: 3764

extending in opposite directions. Furthermore, Weingardt fails to teach the lower grasping portion sized and shaped to rest on a user's thighs.



4. Marshall (U.S. 610,716)

teaches a device including an upper and lower grasping portion and a flexible member therebetween. Marshall fails to teach grasping means and thigh engaging means having ends extending in opposite directions. Marshall also fails to teach the thigh engaging portion pivotally connected to the flexible member.

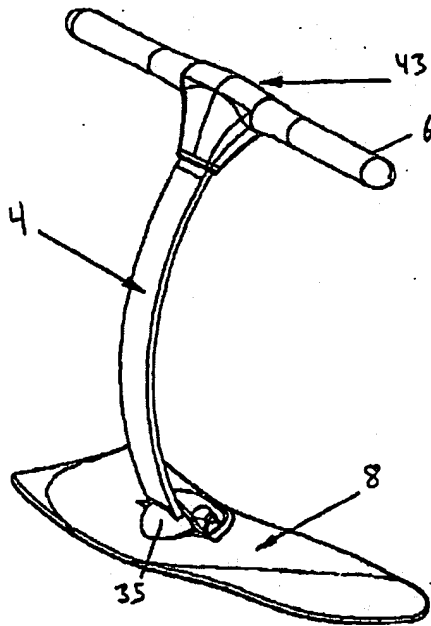


5. Abdo (U.S. 6,022,203)

teaches an upper

grasping member, and a lower engaging member, and a flexible member therebetween. Abdo fails to teach the lower member pivotally connected to the flexible member, and further fails to teach the upper and lower members having ends extending in opposite directions. Furthermore, Abdo fails to teach a flat flexible member.

6. The prior art of record fails to teach the elected embodiment as presented



including an upper grasping member having ends extending in opposite directions, wherein the upper grasping member is sized and shaped to engaged a user's chest, a lower thigh engagement member pivotally connected to a flat flexible member, wherein the flexible member can flex during abdominal exercise.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

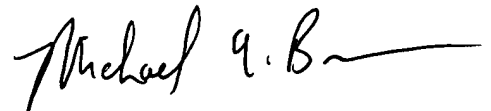
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

Art Unit: 3764

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fcm
May 13, 2005

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

**MICHAEL A. BROWN
PRIMARY EXAMINER**